

Opening Statement of Rep. Glenn Thompson (R-PA)
Committee on Education and Labor
Hearing on “Reducing the Growing Backlog of
Contested Mine Safety Cases”
February 23, 2010

Thank you Chairman Miller, and good morning.

As lawmakers, we like to try and solve problems. There’s a tendency to believe that whatever challenges we face, the answer lies with more federal funding or additional rules and regulations.

Yet we know it is a mistake to legislate a solution without fully understanding the challenge. And so, before we talk about reducing the backlog of contested mine safety cases, I’d like to spend time this morning examining *why* we’re seeing an increase in contested citations. I’d also like to understand what it means for the mine owner and – most importantly – for the safety of miners when a citation is contested.

For example, it’s worth noting that even when a citation is contested, any identified safety hazards must be corrected. While there may be disputes about the category in which a citation falls or the financial penalties levied as a result, these reasonable disputes should not – and indeed, they do not – put the safety and health of miners at risk.

Knowing that contested citations are not putting miners at risk, it is still reasonable for us to ask *why* we've seen an increase in the number of contested cases.

One logical place to look is the legislative and regulatory changes that have taken place over the last several years. Of course, we know Congress acted in a bipartisan fashion in 2006 to increase penalties for safety violations, especially for those of a repeated or egregious nature.

The regulations implementing the civil penalties of the MINER Act were finalized in 2007. Then, in 2008 and again in 2009, the Mine Safety and Health Administration announced a series of policy changes that limit opportunities for mine operators to discuss citations without first initiating a full legal dispute of MSHA's findings.

In other words, legislative and regulatory changes are *forcing* mine operators to formally contest citations in order to provide more information to MSHA. It's no wonder we've seen an uptick in the number of citations that are challenged.

Is this a case of mine operators acting in bad faith? Some may try to make that claim today, but I would offer a different view. Rather it appears mine operators are simply adapting to a punitive new regulatory environment that favors litigation and conflict over collaboration.

I hope today's hearing examines both the causes and the consequences of the increase in contested MSHA citations – and I hope this committee proceeds with caution before we attempt to legislate in an area where legislation and regulation may actually be the cause – rather than the solution – to the problem. Thank you and I yield back.

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